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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,832	03/11/2004	Kevin Lubinsky	C001-101	5026

7590 06/02/2005
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EXAMINER

ROWAN, KURT C

ART UNIT PAPER NUMBER

3643

DATE MAILED: 06/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/798,832

Applicant(s)

LUBINSKY ET AL.

Examiner

Kurt Rowan

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-15, 17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-4, 8-10 and 12-17 is/are rejected.
- 7) ☒ Claim(s) 5-7, 11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 8, 9, 10, 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Marsters for substantially the same reasons stated in the first Office Action.

The patent to Marsters shows a fishing device having a line 11 connectable between the fishing line 4 and a hook 12. Marsters shows a parachute 9-10 attached to the line 11. The cap 9-10 can be considered as a parachute since it increases drag the baited hook as a fish strikes. Marsters shows a container having two parts 1, 9 with part 1 connected to the fishing line 4 and part 9 connected to the hook 12. Marsters shows a connector 11 for connecting the two parts with the parachute 9-10 packed partially within the container 1. Marsters shows the connector releasing the two parts in Fig. 3 when a tension force between the hook and the fishing line exceeds a threshold.

3. Claims 1, 3, 4, 13, 14, 15, 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Thayer et al. for substantially the same reasons stated in the first Office Action.

The patent to Thayer shows a fishing device comprising a line 14 connectable between a fishing line 32 and a hook 28 as shown in Fig. 2. Thayer shows a parachute or drag 20 attached to the line 14.

Allowable Subject Matter

4. Claims 5-7 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

5. Applicant's arguments filed Feb. 9, 2005 have been fully considered but they are not persuasive. Applicant's definition of a parachute is such that the present invention does not read or meet the definition since it calls for slowing the descent of a person or object through air and the present invention slows an object through water. It should be pointed out that while claim 3 recites that the parachute is attached to the line so as not to provide a drag when the line is pulled in the direction of the fishing line, in the response on page 5, paragraph 2, lines 8-9 state that anything attached to the line will provide a drag. These two statements contradict each other. Applicant further argues that a parachute has a periphery and that the periphery is attached to a line. Thayer shows a parachute 20 having a periphery 18 attached to a line 14. Marsters shows a parachute 9. The periphery can be interpreted to be post 10 and the line is attached to the post. In regard to claim 9, Marsters shows the line 11 packed within the confines of the cover 10. In regard to claim 10, Marsters shows the container 1 opening when tension between the line and the hook exceeds a certain threshold noting Fig. 1. In regard to claim 15, the same arguments to the parachute recited above apply. Both Marsters and Thayer show devices that increase drag on the fishing line due to

Art Unit: 3643

parachute devices when the line is moved in the direction of the hook. The drag provided by Thayer is not independent of the direction of line movement.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kurt Rowan whose telephone number is (571) 272-6893. The examiner can normally be reached on Monday-Thursday 6:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3643

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Kurt Rowan", with a long, sweeping horizontal stroke extending to the right.

Kurt Rowan
Primary Examiner
Art Unit 3643

KR